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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/322,201 05/28/99 TANAKA S 236/238

QM12/0425

NEIL D. GERSHON
U.S. SURGICAL CORPORATION
150 GLOVER AVENUE
NORWALK CT 06856-2066

EXAMINER

LEWIS, W

ART UNIT

PAPER NUMBER

3731

6

DATE MAILED:

04/25/00

**Pleas find below and/or attached an Office communication concerning this application or
pr ceeding.**

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/322,201

Applicant(s)
Tanaka et al.

Examiner
William Lewis

Group Art Unit
3731



☒ Responsive to communication(s) filed on May 28, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-42 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-5, 8-21, 23-25, and 34-42 is/are rejected.

☒ Claim(s) 6, 7, 22, and 26-33 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

WILLIAM W. LEWIS

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 2, 3, 10 and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 2 and 3 are functional in scope and fails to further structurally limit the invention. Claim 10 is an infinite range due to the fact that the ankle (which varies from person to person) is the base of the dimension. Claim 41 depends on claim 41.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 1-5, 8-21, 23-25 and 34-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Echeverry et al. (US Patent 6,015,421). Echeverry et al. disclose a device comprising a balloon (40), lumen (74) and a cannula (20, 60).

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Allowable Subject Matter

4. Claims 6, 7, 22, and 26-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to W. Lewis whose telephone number is (703) 308-0060.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Buiz, can be reached on (703) 308-0871. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590 or 3591.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.


WILLIAM W. LEWIS

WL

April 21, 2000